

FISCAL NOTE

Bill #: HB0270

Title: Clarify certain definitions relating to divisions of land

Primary

Sponsor: Cliff Trexler

Status: As introduced

Sponsor signature	Date	Dave Lewis, Budget Director	Date
-------------------	------	-----------------------------	------

Fiscal Summary

	<u>FY2000</u> <u>Difference</u>	<u>FY2001</u> <u>Difference</u>
Expenditures:	\$0	\$0
Revenue:	\$0	\$0
Net Impact on General Fund Balance:	\$0	\$0

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
X		Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

Department of Commerce

1. Two Montana Attorney's General (A.G.) have held that under the Montana Subdivision and Platting Act the mere fact that a recorded deed describes the tract conveyed thereby as comprising several small aliquot parts of a U.S government section does not segregate these aliquot parts from each other so as to permit their separate conveyance without compliance with the Act 38 Op. A.G.. No. 66 (1980); affirmed subsequent to 1997 amendments, 47 Op. A.G. No. 10 (1997).
2. If adopted and approved, HB270 would overturn these opinions and instantly create thousands of parcels of land throughout the state, ranging in size from 2.5 acres to 160 acres, that would be exempt from the local government review provided for in the Montana Subdivision and Platting Act. This estimate is based on the fact that most privately owned land in Montana was originally patented, or has been

(continued)

reconveyed since it was patented, by reference to its constituent U.S. Government survey aliquot parts and lots. Because the legal descriptions contained in the records of these conveyances normally separate each aliquot part or government lot component from the next with a comma "or other punctuation," all of these component parts would be deemed to be separate "tracts of record" under HB270.

3. The fiscal impacts of HB270 would be absorbed within the Community Development Bureau as presented in the Governor's Executive Budget Recommendations for the 2001 biennium.

Department of Revenue (DOR)

4. For the purposes of this fiscal note it is assumed that the "tract of record" (Section 1 (17)(a) of the bill) will always include a legal description (see technical note) and there is no fiscal impact.
5. If the tract of record is not required to include the legal description, there would be significant fiscal impact to the DOR.

Department of Environmental Quality (DEQ)

6. The bill amends the definition of "aliquot part" in the Subdivision and Platting Act, which is administered by local government. The term is not used in the Sanitation in Subdivision Act, which is administered by DEQ. The bill will therefore have no effect on DEQ.

Department of Justice

7. There is no fiscal impact to the Department of Justice.

FISCAL IMPACT:

	<u>FY2000</u> <u>Difference</u>	<u>FY2001</u> <u>Difference</u>
<u>Expenditures:</u>	\$0	\$0
<u>Funding:</u>	\$0	\$0
<u>Revenues:</u>	\$0	\$0
<u>Net Impact to Fund Balance (Revenue minus Expenditure):</u>	\$0	\$0

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Department of Commerce

Creation of vast numbers of parcels without benefit of local subdivision review under the Montana Subdivision and Platting Act would defeat the salutary purposes of the Act, one of which is to avoid the excessive expenditure of public funds in order to provide water, drainage, access, transportation, and other public services [76-3-501(1), MCA]. Although it is impossible to quantify these costs prospectively, one must assume that over time they will be substantial.

TECHNICAL NOTES:

Department of Revenue

The language amending the definition of "tract of record" in Section 1 (17)(a) of the proposal may suggest that it would be allowable to define a property on a deed simply by its aliquot part, [i.e. 1/128 Section 6]. Without the legal description of where this aliquot part is located in the section, [i.e. (1/128) N1/2NE1/4NE1/4NE1/4, Section 6], the Department of Revenue would not know where the property was located and, therefore, could not value the property. Some mechanism of matching the aliquot part with the

(continued)

legal description would have to be developed for the DOR to know which exact parcel of land to assess to each owner within a section. Language should be amended to clarify the bill and ensure that the legal description must accompany the aliquot part when describing properties on a deed. If not amended to clarify this, it could have a very large impact on the accurate valuation and assessment of properties by the DOR.